



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

00000000

141693

JUL 31 2000

REPLY TO THE ATTENTION OF

Nicor Mercury Sites

FACSIMILE
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Christine Crawford, Esq.
Hinkels & McCoy, Inc.
985 Jolly Road
P.O. Box 950
Blue Bell, PA 19422-0900

RE: Nicor Mercury Sites
General Notice of Potential Liability and
Request for Information

Dear Ms. Crawford:

The United States Environmental Protection Agency (U.S. EPA) has documented the release or threatened release of hazardous substances, pollutants and contaminants at the above referenced Site, and is planning to spend public funds to control and investigate these releases. This action will be taken by U.S. EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (SARA), unless U.S. EPA determines that such action will be done properly by a responsible party. Responsible parties under CERCLA include the current and former owners and operators, and persons who generated the hazardous substances or were involved in transport, treatment, or disposal of them at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where the Agency uses public funds to achieve the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning and enforcement.

U.S. EPA is currently monitoring the following actions at the above referenced Site.

1. Identify homes which have been contaminated with mercury;
2. Ensure that homes that have been identified as being contaminated with mercury have been properly decontaminated;

3. Relocate residents while their homes are being decontaminated;
4. Test residents for elevated mercury levels; and
5. Implement the appropriate air monitoring program for mercury.

U.S. EPA has received information that your organization may have generated hazardous substances that were disposed of at the Site. By this letter, U.S. EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to reimburse U.S. EPA for costs incurred to date and to voluntarily perform or finance the response activities that U.S. EPA has determined or will determine as required at the Site. U.S. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse U.S. EPA for its costs. If a consent order cannot be promptly concluded, U.S. EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of U.S. EPA's costs, for statutory penalties, and for treble damages for noncompliance with such an order. If you are a qualified small business, enclosed is an U.S. EPA Small Business Regulatory Enforcement Fairness Act information sheet which may be helpful if you are subject to an U.S. EPA enforcement action.

As a potentially responsible party, you should notify U.S. EPA, in writing, by Thursday, August 3, 2000 of your willingness to perform or finance the activities described above. If U.S. EPA does not receive a timely response, U.S. EPA will assume that your organization does not wish to negotiate a resolution of its potential responsibility in connection with the Site and that your organization has declined any involvement in performing the response activities.

Your letter should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in voluntary cleanup action or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

In addition, U.S. EPA is seeking to obtain certain other information from you pursuant to its authority under Section

104(e) of CERCLA, 42 U.S.C. § 9604(e), for the purpose of enforcing CERCLA and to assist in determining the need for response to a release of hazardous substance(s) under CERCLA. The Administrator of U.S. EPA has the authority to require any person who has or may have information relevant to any of the following to furnish U.S. EPA with such information: (1) the identification, nature or quantity of materials which have been or are generated, treated, stored or disposed of at, or transported to, a facility; (2) the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from a facility; and (3) the ability of a person to pay for or perform a cleanup. Pursuant to Section 104(e) of CERCLA, you are hereby requested to submit the following information concerning the Nicor Mercury Sites located in various locations in the Greater Chicago Metropolitan Area.

1. Describe the process in which Nicor Gas and/or its contractor, Hinkels & McCoy was using in the removal of mercury regulators.
2. Describe the size of the vials which were removed by Nicor Gas and/or Hinkels & McCoy.
3. How many mercury regulators have been removed by Hinkels & McCoy in the past two years?
4. Estimate the amount of mercury regulators which will be removed in the future.
5. Describe the relationship between Nicor Gas and Hinkels & McCoy. Include a copy of the contract signed between the two companies.
6. What kind of program is in place to address OSHA concerns for removal and proper disposal of mercury?
7. Describe the training provided for individual workers who perform the removal of mercury regulators.
8. Identify all residences that have had mercury regulators removed. For each regulator removal, include the names, addresses and phone numbers for each residence and the date that the regulator was removed.

To assist you in answering this request, the information sought pertains to any and all information in your possession, custody or control relating to the operation of the above referenced Site and to the transportation, storage, and/or disposal of hazardous substances or the generation of hazardous substances which were ultimately disposed of or offered for disposal at the Site.

4

This request is directed to your company, its officers, directors, and employees, and its subsidiaries, divisions, facilities and their officers, directors, and employees. Due to the nature of the hazardous substances which pose an imminent and substantial endangerment to the public health, welfare and the environment, the information sought herein must be sent to U.S. EPA by Thursday, August 3, 2000. Failure to respond fully and truthfully to this request, or to adequately justify any failure to respond, may result in an enforcement action against you by U.S. EPA under Section 104 of CERCLA, as amended. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may request however, that any such information be handled as confidential business information. A request for confidential treatment must be made when the information is provided, since any information not so identified will not be accorded this protection by U.S. EPA. Information claimed as confidential will be handled in accordance with the provisions of 40 C.F.R. Part 2.

The written statements submitted pursuant to this request must be notarized and submitted under an authorized signature certifying that all information contained therein is true and accurate to the best of the signatory's knowledge and belief. Moreover, any documents submitted to U.S. EPA pursuant to this information request should be certified as true and authentic to the best of the signatory's knowledge and belief. Should the signatory find, at any time after the submittal of the requested information, that any portion of the submitted information is false, the signatory should so notify U.S. EPA. If any answer certified as true should be found to be untrue, the signatory can and may be prosecuted pursuant to 18 U.S.C. § 1001. U.S. EPA has the authority to use the information requested herein in any administrative, civil or criminal action.

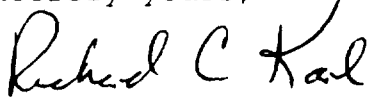
Your responses to both the notice of potential liability and the information requests should be sent to:

Carol Ropski
U.S. EPA - Region 5
Emergency Enforcement & Support Section SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604

If you need further information regarding this letter, you may contact Carol Ropski, Emergency Enforcement & Support Section, at (312) 353-7647. Direct any legal questions to Hedi Bogda-Cleveland, of the Office of Regional Counsel at (312) 886-5825. Questions of a technical nature should be addressed to Brad Stimple, On-Scene Coordinator at (312) 886-0406.

Due to the nature of the problem at this Site and the attendant legal ramifications, U.S. EPA strongly encourages you to submit a written response within the time frames specified herein. We hope you will give this matter your immediate attention.

Sincerely yours,

A handwritten signature in cursive script that reads "Richard C. Karl".

Richard C. Karl, Chief
Emergency Response Branch

Enclosure

LIST OF RESPONDENTS OF GENERAL NOTICE

Nicor Gas
c/o Angela Foster-Rice, Esq.
Gardner, Carton & Douglas
Quaker Tower
321 North Clark Street
Chicago, IL 60610-4795

cc: Cherlyn W. Tribble
Nicor Gas
1844 Ferry Road
Naperville, IL 60563-9600

Christine Crawford, Esq.
Hinkels & McCoy, Inc.
985 Jolly Road
P.O. Box 950
Blue Bell, PA 19422-0900



U.S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and State environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. Many public libraries provide access to the Internet at minimal or no cost.

EPA's Small Business Home Page (<http://www.epa.gov/sbo>) is a good place to start because it links with many other related websites. Other useful websites include:

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Programs
<http://www.epa.gov/ttn/sbap>

Compliance Assistance Home Page
<http://www.epa.gov/oeca/oc>

Office of Site Remediation Enforcement
<http://www.epa.gov/oeca/osre>

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance on environmental requirements.

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs. Key hotlines include:

Small Business Ombudsman
(800) 368-5888

*Hazardous Waste/Underground Tanks/
Superfund*
(800) 424-9346

*National Response Center
(to report oil and hazardous substance spills)*
(800) 424-8802

Toxic Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

*Stratospheric Ozone and Refrigerants
Information*
(800) 296-1996

Clean Air Technical Center
(919) 541-0800

Wetlands Hotline
(800) 832-7828

Compliance Assistance

In partnership with industry, universities, and other federal and state agencies, EPA has established national Compliance Assistance Centers that provide Internet and "faxback" assistance services for several industries with many small businesses. The following Compliance Assistance Centers can be accessed by calling the phone numbers below and at their respective websites:

Metal Finishing

(1-800-AT-NMFRC or www.nmfrc.org)

Printing

(1-888-USPNEAC or www.pneac.org)

Car

(1-888-GRN-LINK or www.ccar-greenlink.org)

Oil

(1-888-663-2155 or www.epa.gov/oeca/ag)

Paint

(1-734-995-4911 or www.pwbrc.org)

The Chemical Industry

(1-800-672-6048 or www.chemalliance.org)

The Transportation Industry

(1-888-459-0656 or www.transource.org)

The Paints and Coatings Industry

(1-800-286-6372 or www.paintcenter.org)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information. For assistance in reaching state agencies, call EPA's Small Business Ombudsman at (800)-368-5888 or visit the Small Business Environmental Homepage at <http://www.smallbiz-enviroweb.org/state.html>.

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations, businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses: The Audit Policy (<http://www.epa.gov/oeca/auditpol.html>) and the Small Business Policy (<http://www.epa.gov/oeca/>

[smbusi.html](http://www.epa.gov/oeca/smbusi.html)). These do not apply if an enforcement action has already been initiated.

Small Business Regulatory Enforcement Fairness Act and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an ombudsman ("SBREFA Ombudsman") and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The SBREFA Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your Standard Industrial Code (SIC) designation, number of employees or annual receipts defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) or related provisions.